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8 IOVATE HEALTH SCIENCES U.S.A. INC.

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA**

12 RONALD PATRICK KLINE and
13 YAMIL CARABALLO, Individually
And On Behalf Of All Others Similarly
Situated.

Plaintiffs.

V.

IOVATE HEALTH SCIENCES U.S.A. INC.,

Defendant.

Case No. 15-cv-2387-L-WVG

MOTION TO DISMISS SECOND AMENDED COMPLAINT

[Memorandum of Points and Authorities and Declaration of Scott J. Ferrell filed concurrently herewith]

Date: May 30, 2017
Time: 10:30 a.m.
Judge: Hon. M. James Lorenz
Ctrm: 5B

**NO ORAL ARGUMENT UNLESS
REQUESTED BY THE COURT**

1 TO ALL PARTIES AND TO THEIR ATTORNEYS OF RECORD:

2 **PLEASE TAKE NOTICE** that on May 30, 2017, or as soon thereafter as
3 counsel may be heard, in Courtroom 5B of the above-entitled Court, located at 221
4 West Broadway, San Diego, CA 92101, the above-captioned Defendant Iovate Health
5 Sciences U.S.A. Inc. (“Defendant”) will, and hereby does move this Court for an order
6 dismissing the Second Amended Complaint under Federal Rules of Civil Procedure
7 12(b)(1) and 12(b)(6).

8 **PLEASE TAKE FURTHER NOTICE** that no oral argument shall be
9 conducted unless requested by the Court.

10 This Motion is based upon this Notice, upon the Memorandum of Points and
11 Authorities, the Declaration of Scott J. Ferrell, upon the records and files of this action,
12 and upon such additional argument as the Court may consider at the hearing of this
13 Motion.

14

15 Dated: April 19, 2017

PACIFIC TRIAL ATTORNEYS, APC

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17 By: /s/ Scott J. Ferrell

18 Scott J. Ferrell

19 Attorneys for Defendant

20 IOVATE HEALTH SCIENCES U.S.A. INC.

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